

City Council Meeting Minutes

**November 17, 2015
City Hall, Council Chambers
749 Main Street
7:00 PM**

Call to Order – Mayor Muckle called the meeting to order at 7:00 p.m.

Roll Call was taken and the following members were present:

City Council: *Mayor Muckle, City Council members: Jeff Lipton, Ashley Stolzmann, Jay Keany, Dennis Maloney and Susan Loo*

Absent: *Council member Chris Leh*

Staff Present: *Malcolm Fleming, City Manager
Heather Balser, Deputy City Manager
Aaron DeJong, Director of Economic Development
Troy Russ, Interim Planning & Building Safety Director
Sean McCartney, Principal Planner
Meredyth Muth, Public Relations Manager
Nancy Varra, City Clerk*

Others Present: *Sam Light, City Attorney
Colette Cribari, Municipal Prosecutor*

PLEDGE OF ALLEGIANCE

Mrs. Hunter's first grade class from Coal Creek Elementary School led the pledge of allegiance.

APPROVAL OF AGENDA

Mayor Muckle called for changes to the agenda and hearing none, moved to approve the agenda, seconded by Council member Stolzmann. All were in favor. Absent: Council member Leh.

PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA

Alex Bradley, 1385 Caledonia Circle, Louisville, CO presented a program to the Citizen Action Council on Saturday, November 14 entitled "Present, Proposed and Potential Development in Louisville". She thanked Interim Planning and Building Safety Director Russ for helping her prepare. She thanked Council members Chris Leh and Jay Keany for attending and adding valuable content to the meeting and noted approximately 40 people attended. The program's intent was to educate the public on the development process and while preparing she realized it is almost impossible for citizens to understand what is happening in the City. She requested Council give staff time to ensure the information on the City's Web site is in a clear and concise format. She stated citizens are frustrated with growth and the impacts to traffic and City services and do not know the Small Area Plans are opportunities to provide input. She said the process is difficult to understand and felt the City should educate the public.

APPROVAL OF THE CONSENT AGENDA

Mayor Muckle called for changes to the consent agenda and hearing none, moved to approve the consent agenda, seconded by Council member Keany. All were in favor. Absent: Council member Leh.

- A. *Approval of the Bills***
- B. *Approval of Minutes: October 20, 2015; October 26, 2015; November 3, 2015***
- C. *Approve Cancellation of December 22 Study Session***
- D. *Approve Resolution No. 82, Series 2015 – A Resolution Setting the Compensation of the Deputy Municipal Judge***
- E. *Approve Word of Mouth Catering Contract for Catering Services for the Senior Meal Site***
- F. *Approval of Resolution No. 83, Series 2015 – A Resolution Approving An Amendment to the Colony Square Planned Unit Development (PUD) To Allow A 160 Square Foot, 626 Foot Tall Sign at Lot 5, Colony Square***
- G. *Approval of Resolution No. 84, Series 2015 – A Resolution Approving A Request For A Final Subdivision Plat and Planned Unit Development (PUD) To Allow For The Construction of a New 76,250 SF Storage Facility with a 1,196 SF Office***

COUNCIL INFORMATIONAL COMMENTS ON PERTINENT ITEMS NOT ON THE AGENDA

Mayor Muckle expressed the City Council's condolences to the people of Paris, France, who were victimized by a terrorist attack last weekend.

OATH OF OFFICE FOR MAYOR ROBERT MUCKLE AND CITY COUNCIL MEMBERS JAY KEANY, SUSAN LOO AND DENNIS MALONEY

Municipal Judge W. Bruce Joss swore in Mayor Robert Muckle, Ward I City Council member Jay Keany, Ward II Council member Susan Loo and Ward III Council member Dennis Maloney.

RECEPTION

The City Council recessed at 7:15 p.m. to a reception welcoming Mayor Muckle and Council members Keany, Loo and Maloney. The meeting reconvened at 7:35 p.m.

Mayor Muckle reminded the City Council the Senior Thanksgiving Luncheon is on Wednesday, November 18th at 12:00 p.m. at the Senior Center.

CITY MANAGER'S REPORT

City Manager Fleming reported on two open houses for the Recreation and Senior Center and possible Aquatics Center. Both will be held at the Recreation and Senior Center. The first open house is Wednesday, December 2, from 6:30 to 8:30 pm and the topic will be Aquatics Facilities including Memory Square. The second open house is Wednesday, December 9, from 6:30 to 8:30 pm and the topic will be the Recreation and Senior Center expansion. He also reported on the NASA exhibit at the Louisville Public Library, which is the pilot location for this exhibit. Librarians from around the country are in Louisville learning how to successfully host this exhibit.

REGULAR BUSINESS

ELECTION OF MAYOR PRO TEM

City Attorney Light explained pursuant to the City Charter, the Mayor Pro Tem is elected among the Council members for a 2-year term to expire upon the next City Council election. The state legislature made changes to the Open Meetings law restricting the use of balloting, but also included a phrase stating a vote to elect leadership of a local public body, by that same public body may be taken by secret ballot if the local public body so chooses. Council has the option to use paper ballots or take voice votes or a combination of paper ballot followed by a voice vote.

Nominations: Mayor Muckle opened the nominations and nominated Council member Keany. Council member Loo nominated Council member Lipton. The nominations were closed and paper ballots were distributed. Council member Lipton received four votes. Council member Keany received two votes.

MOTON: Mayor Muckle moved to appoint Council member Lipton as Mayor Pro Tem, by acclamation, seconded by Council member Loo. All were in favor. Absent: Council member Leh. Mayor Pro Tem Lipton expressed his honored to serve as Mayor Pro Tem.

2015 – 2017 CITY COUNCIL COMMITTEE ASSIGNMENTS

Mayor Muckle announced the City Council appointments to the following committees:

Finance Committee:

Councilor Stolzmann, Chair
Councilor Maloney, Mayor Muckle

Business Retention and Development Committee:

Councilor Loo, Chair
Councilors Maloney and Lipton

Water Committee:

Councilor Keany, Chair
Councilors Lipton, Mayor Muckle

Louisville-Superior Joint Interest Committee:

Councilor Maloney
Councilor Stolzmann

Legal Review Committee:

Councilor Leh, Chair
Councilors Lipton and Loo

Denver Regional Council of Governments:

Councilor Stolzmann
Mayor Muckle, Alternate

Louisville Revitalization Commission
Mayor Muckle (5-Yr Term 2013-2017)

Representative to US Commuting Solutions:
Councilor Loo

Boulder County Consortium of Cities:

Councilor Leh
Mayor Muckle, Alternate

Liaison to Open Space Advisory Board:

Councilor Lipton

Liaison to Golf Course Advisory Board:

Councilor Maloney

Liaison to the Historical Commission:

Councilor Keany

Liaison to the Louisville Cultural Council:

Councilor Leh

Liaison to the Parks & Public Landscaping
Advisory Board

Councilor Loo

Liaison to the Library Board of Trustees:

Councilor Stolzmann

Liaison to the Senior Advisory Board:

Councilor Leh

Liaison - Louisville Sustainability Board:

Councilor Keany

Liaison to the Youth Advisory Board

Councilor Keany

RESOLUTION No. 85, SERIES 2015 – A RESOLUTION APPROVING A REQUEST FOR A FINAL SUBDIVISION PLAT AND PLANNED UNIT DEVELOPMENT (PUD) ALLOWING A MAXIMUM OF 448,948 SF FLEX/OFFICE DEVELOPMENT WITH ASSOCIATED SITE IMPROVEMENTS WITHIN THE COLORADO TECHNOLOGY CENTER (CTC)

Mayor Muckle called for a staff presentation.

Principal Planner McCartney explained the request is to approve a Final Planned Unit Development (PUD) Plan for a Final Subdivision Plat and Planned Unit Development

(PUD) allowing a maximum of 449,948 SF flex/office development with associated site improvements within the Colorado Technology Center (CTC).

The subject property is located in CTC; zoned Industrial (I) and is known as the Hoyle Family Trust. The applicant is requesting two alternatives: Alternative #1: Three (3) buildings totaling 396,000 SF. Alternative #2: One (1) 450,000 SF building. The platting of this property would trigger a public land dedication (PLD) requirement of 12%, or equivalent cash-in-lieu. Both alternatives comply with Chapter 16 of the Louisville Municipal Code (LMC). The cash-in-lieu to the Open Space Fund would be \$533,232 and would be used for land within "Southeast Boulder County, South Street, Dillon Road and US 287 Area Comprehensive Development Plan Intergovernmental Agreement".

ALTERNATIVE # 1

Site Plan: 63% lot coverage (75% permitted). Each Lot separately complies with lot coverage. There is surface parking on all 4 sides of building. The loading areas are protected from view of Dillon Road by an "L" shaped building and landscaping.

Parking: Lot 1: Warehousing – 449 Spaces; Office -585 spaces*. Lot 2: Warehousing 333 spaces; Office – 478 spaces. Lot 3: Warehousing – 300 spaces; Office – 448 spaces*. *Lot 3 requires a parking waiver if full office and a shared parking agreement.

Access: Three access points off Dillon Road: One primary – to a cul-du-sac and two secondary to loading areas of Lot 1 and Lot 3. Secondary access on northeast corner provides access to Boxelder Street.

Sidewalks: To remain consistent with the CTC Sidewalk Plan, this development is proposing sidewalks on the west side of the proposed cul-du-sac; and an 8' sidewalk on the north side of Dillon Road from Pierce Avenue to 104th.

Architecture: Buildings A and B would be located along Dillon Road. Building C will be located behind Buildings A and B.

Signs: Monument Signs: IDDSG allows one freestanding sign for each access. The applicant is requesting 3 monument signs; 14 feet tall for project sign; 6'6" for signs on east and west access. Staff did not support waiver for sign heights.

Tenant Signs: The applicant is proposing 3 tenant signs for each lot. Staff recommended approval of tenant signs.

Wall Signs – waiver: IDDSG allows 15 SF wall signs, not to total more than 80SF. The applicant is proposing 40 SF signs not to total more than 120 SF.

ALTERNATIVE # 2

Site Plan: One 449,948 SF building; 67.7% lot coverage (75% permitted); surface parking on all four sides of building; loading areas protected from view of Dillon Road by

wing walls and landscaping.

Parking: Lot 1: Warehousing – 1,163 spaces; Office 1,554 spaces.

Access: Three access points off Dillon Road; one primary and two secondary to loading areas. The secondary access is on the northeast corner and provides access to Boxelder Street.

Sidewalks: This development is proposing sidewalks on the west side of the primary access. An eight foot sidewalk is also proposed on north side of Dillon Road.

Signs: Monument Signs: IDDSG allows one freestanding sign for each access. The applicant is requesting three monument signs; 14' tall for project sign and 6'6" for signs on east and west access. Staff does not support waiver for the heights.

Wall Signs – Waiver: IDDSG allows 15 SF wall signs, not to total more than 80 SF. The applicant is proposing 40 SF signs not to total 120 SF.

Staff recommended approval of Resolution 85, Series 2015, with six conditions:

1. Staff requests the applicant redesign the monument signs to comply with the IDDSG in terms of height. The modification shall be reflected on the PUD prior to submittal to City Council.
2. The applicant shall provide an appraisal of the property to determine the 12% public land dedication amount at time of the drafting of the subdivision agreement.
3. Staff requests the applicant comply with the fire hydrant placement in Alternative #1, established by the Fire Marshall prior to City Council submittal.
4. The applicant is required to provide a shared parking agreement for Lot 3 if Lot 3 develops an exclusive office use prior to issuance of a Certificate of Occupancy for tenant finish.
5. The applicant must comply with the August 26, 2015 Public Works memo prior to recordation.
6. Applicant shall within 24 months finalize and submit to the City for recording a final plat and PUD for either Alternative #1 or Alternative #2 and shall execute a subdivision agreement, in a form approved by the City, pertaining to the selected alternative.

Principal Planner McCartney explained the applicant has agreed with conditions 1 through 5, but with respect to condition 6, requests 36 months to finalize and submit to the City for recording a final plat and PUD for either Alternative #1 or Alternative #2. He noted the standard for PUD in Chapter 17.28.200, states “no building permit shall be allowed if they have not been recorded within 36 months”. The standard for Plats is in Chapter 16.28 and states “In the event no subdivision agreement has been executed, no construction of required improvements initiated or no building permits issued within

12 months after final approval of the subdivision plat, the City Council or the Planning Commission may call for a review". Staff chose 24 months to allow the applicant more time to make their decision between Alternative #1 or #2.

APPLICANT PRESENTATION

Jim Vasbinder, Etkin Johnson Group, 1512 Larimer Street, Suite 100, Denver, CO noted this property is under a purchase contract from the Hoyle Family Trust. The applicant is asking for alternatives to be considered and approved to provide flexibility in marketing this property. They had success at the Colorado Tech Center with the size of the buildings. He requested Council consideration of the two alternatives and 36 months to finalize and submit to the City the final plat and PUD for either Alternative #1 or Alternative #2.

PUBLIC COMMENT

Michael Menaker, 1827 W. Choke Cherry Drive, Louisville, CO voiced his support for the 36 month extension. He noted there are more and more primary employers coming to Louisville and there is a critical mass of daytime population, bringing some desirable changes to the composition of CTC. He anticipated the amenities for the office workers will be coming soon. He supported the project and the 36 month extension.

COUNCIL COMMENT

Mayor Pro Tem Lipton noted at the last study session it was reported CTC was 60% built out. He asked if this 450,000 SF building was built, what percentage would that add to the buildout. Principal Planner McCartney stated this was an anticipated development area so it would not exceed the overall square footage permitted.

Interim Planning and Building Safety Director Russ noted this is the Hoyle Annexation, which is not currently part of the Colorado Tech Center. They are working with the Metro District to be included, so this would be new acreage added to CTC.

Mayor Pro Tem Lipton addressed the need for transit and onsite amenities including restaurants for the area. He was pleased this project would add \$500,000 to the Open Space Fund.

Mayor Muckle asked whether the City has previously approved 40 SF wall signs.

Principal Planner stated two other CTC projects were approved for 40SF wall signs (2000 Taylor and 1960 Taylor).

Mr. Vasbinder stated four previous projects have received sign waivers from the City (1900 Cherry, 1960 Cherry, 1900 Taylor, 2000 Taylor). All of the buildings have the same flexibility with respect to signs. The first three buildings have been leased to one

tenant so there has only been one sign per building. He supported reviewing the sign code sometime in the future. He confirmed the Hoyle property is not in the CTC Metro District, but will eventually be annexed into the District. As part of the project, Dillon Road will be widened in front of the subject property and the main intersection will be signalized.

City Attorney Light explained because this property is not in the CTC Metro District there is a proportionate payment for a lift station and an open space mitigation payment. He asked if staff had any concerns over the extension from 24 months to 36 months. He pointed out under the Louisville Municipal Code, new building permits would have to be sought within the 36 month period or the applicant would have to come before the City Council to get an extension on the PUD. He gave the example that if the time period is to record in 36 months and it is recorded in 35 months but there are no building permits within 36 months, the applicant would have to come back before the City Council for a PUD extension.

Mr. Vasbinder asked for clarification on whether they could submit their building permit application at 33 months. City Attorney Light explained there has to be a Plat and PUD in place before a building permit can be issued.

Mayor Muckle requested staff track the 36 months.

MOTION: Council member Keany moved to approve Resolution No. 85, Series 2015, changing Condition 6 from 24 months to 36 months, seconded by Mayor Muckle. All were in favor. Absent: Council member Leh.

**RESOLUTION No. 73, SERIES 2015 – A RESOLUTION APPROVING AN AMENDED
AND RESTATED COOPERATION AGREEMENT BETWEEN THE CITY OF
LOUISVILLE AND THE LOUISVILLE REVITALIZATION AGREEMENT**

Mayor Muckle called for a staff presentation.

Economic Development Director DeJong explained this matter was continued from the October 20th City Council meeting. The Louisville Revitalization Commission (LRC) is proposing an amendment to the Cooperation Agreement between the City and LRC. The LRC requests additional language be included in the IGA to clarify the costs and expenses related to the 550 S. McCaslin Urban Renewal Plan are the responsibility of the City.

The City and LRC are parties to a Cooperation Agreement, which provides for City Council oversight and cooperation among the parties concerning activities of the LRC. The City and LRC first entered into a Cooperation Agreement in 2006 which applies to activities of the LRC generally, but was first entered into in conjunction with the adoption of the Highway 42 Urban Renewal Plan and some provisions are tied to provisions of that plan.

The reason for this additional amendment is the 550 S. McCaslin Urban Renewal Plan was approved without authorizing a revenue stream for the LRC to address costs and expenses for the Urban Renewal Plan implementation. The LRC's current funding comes only from the Highway 42 Urban Renewal Plan Area and the LRC believes those revenues should not be used to pay for costs outside that Urban Renewal Area.

Staff recommended City Council approval of Resolution No. 73, Series 2015.

COUNCIL COMMENT

Council member Stolzmann supported the changes to the cooperation agreement. She encouraged Mayor Muckle, as Council representative to the LRC, to try to accelerate repayment of the underpass.

MOTION: Council member Loo moved to approve Resolution No. 73, Series 2015, seconded by Council member Keany. Roll call vote was taken. The motion carried by a vote of 6-0. Absent: Council member Leh.

ORDINANCE No. 1706, SERIES 2015 – AN ORDINANCE AMENDING CHAPTER 2.32 OF THE LOUISVILLE MUNICIPAL CODE TO INCREASE THE SALARY OF THE PRESIDING MUNICIPAL JUDGE – 2nd Reading –Public Hearing

Mayor Muckle requested a City Attorney introduction.

City Attorney Light introduced Ordinance No. 1706, Series 2015.

Mayor Muckle opened the public hearing and requested a staff presentation.

City Clerk Varra explained the Legal Committee met to discuss the salaries of the Municipal Judge, Deputy Judge and Prosecutor. The salary of the Presiding Municipal Court Judge has not been increased since 2011. The Human Resources department conducted salary surveys for Presiding Judges from surrounding cities and similar-sized municipalities. The Legal Committee determined it was appropriate to increase the Presiding Municipal Judge's salary from \$2,000.00 per month to \$2,600.00 per month. The budget allocation was made as part of the 2016 City of Louisville Budget, which was adopted on November 2, 2015.

The salary of the Presiding Municipal Judge is specified in Section 2.32.050 of the Louisville Municipal Code. If Council desires to have the Presiding Municipal Judge's salary set by resolution, as is the case for the Acting or Deputy Municipal Judge, staff will prepare a proposed ordinance to amend the Code accordingly for Council's consideration at a subsequent meeting.

Staff recommended the City Council approve Ordinance No. 1706, Series 2015.

Mayor Muckle called for public comment and hearing none, closed the public hearing.

COUNCIL COMMENT

Mayor Muckle asked why the change from ordinance to resolution would require an ordinance. City Attorney Light explained the Judge's compensation is set by ordinance. In order to change an ordinance it requires an ordinance.

Mayor Muckle noted if it was a resolution as opposed to an ordinance, it could be approved on the Consent Agenda and would not require a public hearing.

Mayor Pro Tem Lipton stated the judge's compensation increase is large because there has not been a review since 2011. He felt it should be reviewed annually by the Legal Committee. Council member Stolzmann agreed. She felt the Legal Committee should discuss whether this should be a resolution or an ordinance and make a recommendation to the City Council.

Council member Loo stated the Legal Committee looked at the salary increase very carefully. She felt comfortable this was an appropriate increase for the Presiding Judge's salary.

MOTION: Council member Loo moved to approve Ordinance No. 1706, Series 2015 on second and final reading, seconded by Council member Stolzmann. Roll call vote was taken. The motion carried by a vote of 6-0. Absent: Council member Leh.

City Attorney Light noted the Charter does not set a preference for whether compensation should be by ordinance or resolution. However, historically, before the City became a Home Rule City, State Statutes required statutory cities to set judges salary by ordinance.

**ORDINANCE No. 1707, SERIES 2015 – AN ORDINANCE AMENDING THE CITY'S
NUISANCE ABATEMENT LAWS AND OTHER CRIMINAL ORDINANCES IN
CONNECTION THEREWITH; AMENDING SECTION 9.04.040 OF THE LOUISVILLE
MUNICIPAL CODE TO ESTABLISH THE MUNICIPAL OFFENSE OF FAILURE TO
APPEAR; AMENDING THE DOLLAR LIMITS FOR PROPERTY OFFENSES IN
SECTIONS 9.46.010 AND 9.04.020 OF SUCH CODE; AMENDING THE
CLASSIFICATION OF TRAFFIC INFRACTIONS UNDER SECTIONS 904 AND 1416
OF THE CITY-ADOPTED MODEL TRAFFIC CODE, AND AMENDING SECTION
4.04.100 OF SUCH CODE TO MAKE VIOLATIONS OF OPEN SPACE
REGULATIONS PUNISHABLE UNDER THE GENERAL PENALTY PROVISION OF
THE CODE – 2nd Reading – Public Hearing**

Mayor Muckle requested a City Attorney introduction.

City Attorney Light introduced Ordinance No. 1707, Series 2015, an ordinance updating the nuisance sections of the Louisville Municipal Code.

Mayor Muckle opened the public hearing and requested a staff presentation.

Municipal Prosecutor Cribari explained Chief Hayes asked her to look at the abatement section of the Louisville Municipal Code because it needed to be updated. She started that as part of the review and update, she looked at abatement codes from seven other communities similar in size to Louisville. She said the ordinance sets up various sections to define nuisances; sets procedures for notice and appeal, procedures for emergency abatement and fees for the abatement. The revisions to the abatement section of the code provide protection to the City and for citizens whose property might be abated.

The ordinance not only updates the City's nuisance regulations, it amends certain sections of the Louisville Municipal Code concerning municipal offenses, including Failure to Appear, clarifying Failure to Appear is a separate offense; amends the dollar amounts for Damage to City Property and Damage to Private Property; changes the classification of two recently adopted traffic code provisions from class B to class A infractions and makes violations of the City's open space regulations punishable as municipal offenses under the general penalty provision of the Code, rather than treating such violations as civil infractions. She summarized the ordinance amendments generally as follows:

Nuisances - Amend Title 8: Adds a new Chapter 8.01 entitled Nuisances.

Feeding Lots and Fly Producing Conditions - Chapter 8.20: Renames Section 8.20.010.

Chapter 6.24 Bees: Removes language stating nuisance bees may be "summarily destroyed or removed."

Abatement Updates to Other Sections of the Code: Cross-reference changes in every section that allows abatement of specific nuisances.

Sec. 9.04.040 Failure to Appear: Makes it unlawful to fail to appear or comply with a court order, and set out procedures to follow regarding a failure to appear or comply.

Sec. 9.46.010 City Property/Sec. 9.46.020 Private Property: A misdemeanor offense under state statute. The ordinance raises the dollar value for a misdemeanor offense, which was raised for the state offense by legislative action to \$1000 in 2014.

Sec. 10.04.020 Additions to City-Adopted Model Traffic Code: Ordinance No. 1692, Series 2015 added violations related to improper turning at a flashing yellow signal and cutting through private property or driveways as a shortcut from one street to another.

That ordinance inadvertently classified these two violations as class B traffic infractions, which carry no point assessments. Class A traffic infractions are subject to a four-point assessment.

Sec. 4.04.100 Violation; Penalty: Section 4.04.100 provides violations of the City's open space use regulations are civil infractions subject to tiered penalties of set amounts. The ordinance proposes to replace these provisions with the general municipal offense provision used throughout the Code for punishment of proscribed conduct.

COUNCIL COMMENT

Council member Stolzmann stated Section 8.20.040, Fly Producing Conditions, was in the Louisville Municipal Code and now it has been moved up into nuisances. Prosecuting Attorney Cribari clarified she did not change those sections of the code but merely moved them up.

Council member Stolzmann commented there are a few items in the specific nuisance sections of the code, where she did not see enforcement, but some of the things listed in 8.01.080 do not appear to be enforceable. She noted roosters were considered a nuisance, but yet they are allowed in agricultural zoned areas. Ms. Cribari explained there are other sections of the code, which deal with roosters.

Council member Stolzmann commented she did not understand why abandoned kitchen appliances were a nuisance, when it is defined under the section on junk. Prosecuting Attorney Cribari explained abandoned kitchen appliances are also defined as a nuisance.

City Attorney Light clarified "roosters" are allowed in the Agricultural RRR District. He felt the two provisions of the code would work together in harmony.

Prosecuting Attorney Cribari explained there is a right to contest an abatement; first through the City Manager and then through the Municipal Court.

PUBLIC COMMENT

Debbie Fahey, 1118 W. Enclave Circle, Louisville, CO stated she was under the impression if the City does not enforce the code on itself, the City is not allowed to enforce the codes on the residents. She noted there are a lot of flies around the City's compost site and a lot of weeds on City property. She questioned how much of the nuisance codes could actually be enforced.

City Attorney Light stated he was not aware of a legal rule which stipulates the City cannot pursue enforcement of the rules because the City is not in compliance as a governmental entity. He added the City strives to do as much as it can to maintain compliance of its own facilities with its own rules. He noted it might be a matter of

resourcing in some cases. However, if such condition exists, it does not legally preclude enforcement in other cases.

Mayor Pro Tem Lipton stated his understanding if there were abandoned automobiles or refrigerators on private properties, the City could not require them to be removed. He was under the impression enforcement had to be made through the HOA for such nuisances. He asked if the City enforced such nuisance abatement in the past.

City Manager Fleming stated in the past the City has enforced various violations of the City nuisance code, such as accumulation of junk and weeds on a complaint basis. Typically, the City tries to strive for a voluntary compliance. The proposed ordinance changes provide for a clearer process, due process and the right to appeal.

Prosecuting Attorney Cribari noted most of the nuisances fall into various sections of the code where the proscribed conduct can be charged as a criminal violation. In the past when people have been written into Court, compliance is a condition of sentencing. She noted the abatement ordinance provides a different avenue for compliance where the City can abate the nuisance.

Mayor Pro Tem Lipton stated under existing ordinances, residents could file a complaint and the City could force a property owner to remove items of life safety concern. He did not feel the abatement ordinance actually changes that process. Prosecuting Attorney Cribari explained under the abatement ordinance does not change the potential for voluntary compliance or compliance as a condition of sentencing but if there is not compliance the City could go in and clean up the nuisance and bill the resident.

City Attorney Light explained the revised abatement ordinance gives the City a clearer path toward exercising the right to do the work and recover the cost, while respecting the due process and the rights of all the parties involved.

Mayor Muckle requested public comment and hearing none, closed the public hearing.

MOTION: Council member Maloney moved to approve Ordinance No.1707, Series 2015, seconded by Council member Keany. Roll call vote was taken. The motion carried by a vote of 5-0. Absent: Council members Leh and Loo.

CLIMBING GYM/BREW PUB IN CTC

- 1. ORDINANCE No. 1708, SERIES 2015 – AN ORDINANCE APPROVING THE VACATION OF A 25-FOOT WIDE EMERGENCY ACCESS EASEMENT LOT 1, BLOCK 2 OF THE PARK AT CTC – 1ST Reading – Set Public Hearing Public Hearing - 12/1/2015**
- 2. RESOLUTION No. 86, SERIES 2015 – A RESOLUTION APPROVING A FINAL PLANNED UNIT DEVELOPMENT (PUD) AND SPECIAL REVIEW USE (SRU) TO ALLOW FOR THE CONSTRUCTION OF A NEW 24,282 SF CLIMBING**

GYM AND 4,701 SF BREW PUB IN THE COLORADO TECHNOLOGY CENTER

Mayor Muckle requested a City Attorney introduction.

City Attorney Light introduced Ordinance No. 1708, Series 2015 and Resolution No. 86, Series 2015.

MOTION: Mayor Pro Tem Lipton moved to approve Ordinance No. 1708, Series 2015 on first reading, ordered it published and set a public hearing for December 1, 2015, seconded by Mayor Muckle. All were in favor. Absent: Council member Leh.

Resolution No. 86, Series 2015 will be continued to December 1, 2015.

EXECUTIVE SESSION

- 1. PENDING LITIGATION** (Louisville Charter, Section 5-2(d) – Authorized Topics – Consultation with an Attorney Representing the City with Respect to Pending Litigation, and C.R.S. 24-6-402(4)(b))

The City Manager and City Attorney are requesting the City Council convene an Executive Session for the Purpose of Consultation with Respect to Pending litigation.

City Clerk Varra read Section 2.90.050 public statement from the Louisville Municipal Code, which governs the topics discussed in an executive session.

City Attorney Light stated the authority for conducting an executive session is the Louisville Charter, Section 5-2(d) - Authorized Topics – Consultation with an Attorney Representing the City with Respect to Pending Litigation, which includes actual pending lawsuits as well as situation where the persons requesting the executive session believes, in good faith, a lawsuit may result. An Executive Session is also authorized by C.R.S. 24-6-402(4)(b) under the Colorado Open Meetings Law.

City Attorney Light explained the City Manager is requesting the City Council convene an executive session for the purpose of consultation with an attorney representing the City regarding pending litigation, which does not involve a pending lawsuit, but does involve a situation where a lawsuit may result. City Attorney Light joined the request as he felt the situation is of such a nature that legal action may result.

MOTION: Mayor Muckle moved the City Council convene an executive session for consultation with an attorney representing the City with respect to pending litigation and the executive session include the City Council, City Manager, Deputy City Manager Interim Planning & Building Safety Director and City Attorney. Council member Keany seconded the motion. All were in favor. Absent: Council member Leh.

The Council adjourned to executive session at 8:45 p.m. and reconvened the regular meeting at 9:35 p.m.

REGULAR BUSINESS ITEMS CONTINUED
CITY ATTORNEY'S REPORT FROM EXECUTIVE SESSION

City Attorney Light reported in executive session the City Council consulted with the City Attorney with respect to pending litigation, which does not involve an actual filed lawsuit. It involves a situation where the City Attorney believes a legal action may result. The City Attorney consulted with the City Council on some legal issues regarding enforcement issues. There was discussion on a potential legal strategy and the City Council provided direction to the City Attorney. The City Attorney will proceed as directed and if there is a need for a City Council action item, it will be brought forward in an open meeting.

CITY ATTORNEY'S REPORT

No items to report.

**COUNCIL COMMENTS, COMMITTEE REPORTS, AND IDENTIFICATION OF
FUTURE AGENDA ITEMS**

Mayor Pro Tem Lipton reported on the recent Water Committee meeting where they reviewed the significant capital projects related to utilities. They do not anticipate any items going over budget. The Committee reviewed the legal interventions on water change applications and noted there are not many at this time. The Committee was updated on the Raw Water Master Plan process. There was an initial review and projections of the water, sewer and stormwater rates. The Committee requested staff look into possible funding of pipes under the streets. He noted the Water Committee did not receive a revised proposal on Live/Work water tap fees.

ADJOURN

MOTION: Council member Loo moved for adjournment, seconded by Mayor Muckle. All were in favor. The meeting was adjourned at 9:45 p.m.

Robert P. Muckle, Mayor

Nancy Varra, City Clerk